

21 C.J.S. Courts § 199

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Courts

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VI. Rules of Adjudication, Decisions, and Opinions

B. Stare Decisis

2. Courts Making Prior Decision

§ 199. Same court

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West's Key Number Digest

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The rule of stare decisis is frequently invoked when a question is presented that has been previously determined in the same court, even though the question has been determined differently in other jurisdictions, or some of the court's members disagree with the established precedent.

Although the highest court in a jurisdiction has the power to overrule its prior opinions,¹ the rule of stare decisis is frequently invoked when a question is presented that has been previously determined in the same court² even though the question has been determined differently in other jurisdictions.³ Thus, in federal cases, prior circuit court authority is controlling absent any clearly irreconcilable intervening higher authority.⁴ In a diversity action, a federal court of appeals is bound by its own precedent interpreting state law unless there has been an intervening change in authority.⁵ Before reconsidering its own precedent and overcoming the legal stability principles

of stare decisis, a state supreme court must consider such common-sense factors as whether the precedent is a remnant of abandoned doctrine, whether the precedent has proved to be unworkable, whether changing circumstances have deprived the precedent of its original justification, and the extent to which parties relying on the precedent would suffer hardship from its overruling.⁶

Overruling a court's own prior ruling is thus improper merely because some of the court's members disagree with the established precedent.⁷ Similarly, a court may not properly forsake the doctrine of stare decisis and recede from its own controlling precedent when the only change has been in the court's membership.⁸

CUMULATIVE SUPPLEMENT

Cases:

Court of Appeals is bound by the prior-precedent rule to follow a prior published decision of the Court of Appeals; that is, even if the Court of Appeals disagrees with the decision, the court is required to be faithful to it. [Brady v. Carnival Corporation, 33 F.4th 1278 \(11th Cir. 2022\)](#).

No single factor is dispositive in determining whether to overrule a prior ruling because the doctrine of stare decisis is not one to be either rigidly applied or blindly followed. [Union Leader Corporation v. Town of Salem, 239 A.3d 961 \(N.H. 2020\)](#).

[END OF SUPPLEMENT]

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Footnotes

- 1 § 194.
- 2 U.S.—[Sterrett v. Second Nat. Bank of Cincinnati, Ohio, 248 U.S. 73, 39 S. Ct. 27, 63 L. Ed. 135 \(1918\)](#).
 Conn.—[Ozyck v. D'Atri, 206 Conn. 473, 538 A.2d 697 \(1988\)](#).
 Del.—[Account v. Hilton Hotels Corp., 780 A.2d 245 \(Del. 2001\)](#).
 Or.—[Stranahan v. Fred Meyer, Inc., 331 Or. 38, 11 P.3d 228 \(2000\)](#).
 Wis.—[Progressive Northern Ins. Co. v. Romanshek, 2005 WI 67, 281 Wis. 2d 300, 697 N.W.2d 417 \(2005\)](#).
 Generally give deference to own opinions
 R.I.—[State v. Werner, 865 A.2d 1049 \(R.I. 2005\)](#).

Assumes its prior cases were correctly decided

Or.—*State v. Ciancanelli*, 339 Or. 282, 121 P.3d 613 (2005).

3 Wis.—*Johnson Controls, Inc. v. Employers Ins. of Wausau*, 2003 WI 108, 264 Wis. 2d 60, 665 N.W.2d 257 (2003).

Decisions of forum state, rather than federal cases, consulted on issues of state law

Okla.—*Johnson v. Ford Motor Co.*, 2002 OK 24, 45 P.3d 86 (Okla. 2002).

4 U.S.—*Ferguson v. Corinthian Colleges, Inc.*, 733 F.3d 928, 298 Ed. Law Rep. 82 (9th Cir. 2013).

5 U.S.—*Keen v. Miller Environmental Group, Inc.*, 702 F.3d 239 (5th Cir. 2012).

6 N.M.—*State v. Lopez*, 2013-NMSC-047, 314 P.3d 236 (N.M. 2013).

7 Ill.—*People v. Jones*, 207 Ill. 2d 122, 278 Ill. Dec. 45, 797 N.E.2d 640 (2003).

8 Fla.—*North Florida Women's Health and Counseling Services, Inc. v. State*, 866 So. 2d 612 (Fla. 2003).

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